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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

W. P. No. 2584 of 2004

Petitioner : Rajesh Kumar Dewangan

Versus

Respondents : The Life Insurance Corporation of India and others

Post for order on 22nd March, 2007.

Sd/-
Satish K. Agnihotri
Judge

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HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 2584 of 2004

Petitioner		Rajesh Kumar Dewangan, S/o Shri Mani Ram Dewangan, age 29 years, r/o near Asha Deep School, new Changora Bhata, Raipur, C.G.
	Versus	
Respondents	1.	The Life Insurance Corporation of India, through Chairman, Central Office, "Yogakshemam" Jevan Bima Marg, P. Box No. 19953, Mumbai (Maharashtra).
	2.	Regional Manager, L.I.C. Central Zone Office, Jevan Shikah, 60-B, Hoshangabad Road, Bhopal M.P.
	3.	Divisional Manager, L.I.C. of India Raipur, Divisional Office Pandri, Raipur, C.G.

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Shri Sumesh Bajaj, Advocate for the petitioner.

Shri Mukesh Sharma, Advocate for the respondents.

ORDER

(Passed on this 22nd day of March, 2007)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. By this petition the petitioner seeks a direction to the respondents to give appointment letter to the petitioner.
2. The indisputable facts, in nutshell, are that the petitioner was declared successful in the written examination held on 30.1.1994 and interview held on 14.6.1995 for appointment. Vide letter dated 22.7.1995 (Annexure P/3) the petitioner was informed that his name has been placed in the panel list for appointment on the post of Assistant. According to learned counsel for the petitioner, the name of the petitioner was placed at serial number 81 in the said panel list.
3. After a lapse of about 9 years the petitioner has filed this petition for a direction to the respondents to give appointment to the petitioner on the post of Assistant on the ground that the petitioner was denied

appointment letter, despite the fact that he was declared as successful candidate.

4. This petition is filed on several grounds, inter alia, that non issue of the appointment order is violative of provisions of Articles 14 and 21 of the Constitution of India, being discriminatory, arbitrary and unreasonable. Secondly, even after selection, not granting appointment to the petitioner for a period of 8 years is against the public policy and the petitioner is suffering irreparable loss. The petitioner does not make any averment in his petition that any other candidate, placed below in the panel list, has been appointed, during this period.

5. Learned counsel appearing for the respondents submits that the appointment on the post of Assistants, Typists and Stenographers by the Corporation are governed under the provisions of Life Insurance Corporation of India, Recruitment of Class III and Class IV Staff Instructions, 1993. As per the panel approved by the competent authority vide order dated 15.7.1995, in total 181 candidates were impanelled for the post of Assistant in Raipur Division, which is as under:-

(i)	O.B.C. Category	-	22 candidates.
(ii)	General	-	83 candidates.
(iii)	Scheduled Caste	-	29 candidates.
(iv)	Scheduled Tribe	-	43 candidates.
(v)	Ex-Serviceman	-	1 candidate.
(vi)	Physically Handicapped	-	3 candidates.
	Total	-	181 candidates

6. Learned counsel for the respondents further submits that the name of the petitioner is placed at serial number 81 in the ranking, in general category. Till the year 1998 in all 159 candidates have been offered appointments as per roster and in the general category only 66 candidates have been appointed on the post of Assistant. It is next contended that as and when the divisional office of the respondent

Corporation is permitted to appoint Assistants, the same shall be offered to the candidates from the panel list, in the order of their ranking, as per the roster available at that time. The Divisional office has stopped appointment of any employee for want of work for them.

7. Having heard learned counsel for the parties and having perused the pleadings and documents appended thereto, it is apparent that the petitioner is aggrieved by the non appointment on the post of Assistant on the basis of panel list dated 15.7.1995 (Annexure R/5).

8. Learned counsel appearing for the respondent Corporation has made it clear that no junior to the petitioner, placed below in the panel list, has been appointed till date and for the time being appointments on the post of Assistants have been stopped due to paucity of work, available for them. As and when any appointment is made, the candidates in the panel list would be offered appointment, in accordance with their ranking in the impaneled list, as per roster.

9. Learned counsel appearing for the petitioner has cited several decisions, wherein looking in to the facts and circumstances, candidates placed below in the panel list have been appointed and the candidates placed above have been ignored. In the present case there is no proved discrimination, arbitrariness or unreasonableness, as no candidate, placed below in the panel list, has been given appointment letter till date. Thus, the petitioner has failed to make out a case for discrimination, unreasonableness and arbitrariness.

10. In the case of **Shankarsan Dash vs. Union of India** { (1991) 3 SCC 47}, it was held by the Hon'ble Supreme Court that "it is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are not found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied."

11. It was subsequently following in **Ludhiana Central Co-operative Bank ltd. vs. Amrik Singh and others** { (2003) 10 SCC 136}, wherein it was held by the Hon'ble Supreme Court that "even otherwise, it is well settled by now that a person whose name is said to find place in a select panel has no vested right to get appointed to the post in spite of vacancies existing".

12. Further in **Union of India and others vs. Kali Dass Batish and another** { (2006) 1 SCC 779}, the Hon'ble Supreme Court held that "mere inclusion of a candidate's name in the selection list gave him no right, and if there was no right, there could be no occasion to maintain a writ petition for enforcement of a non-existing right".

13. The Hon'ble Supreme Court in **Baitarani Gramiya Bank Vs. Pallab Kumar and others** { AIR 2003 SC 4248} has held that if the banks are forced to accommodate Officers and Field Supervisors more than their required indent, it will have a crippling effect on the Bank and public interest will stand seriously prejudiced as several employees will have to be unnecessarily retained and public money will have to be expended on them. When public interest competes with private interest, the private interest will have to give way to public interest.

14. In view of the settled principle of law the petitioner does not acquire an indefeasible right to be appointed on the post of Assistant pursuant to his selection vide letter dated 22.7.1995 (Annexure P/3), that too after a lapse of 9 years.

15. Therefore, in the facts of the case, no direction can be given to issue appointment letter to the petitioner though he has come out successful in the selection process.

16. In the result, the petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur